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7

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 UNITED STATES OF AMERICA,

CASE NO. 2:10-CR-00287-GMN-VCF

11 Plaintiff,

12 vs.

**EMERGENCY MOTION REQUESTING  
TRIAL TRANSCRIPTS BE  
TRANSCRIBED AT GOVERNMENT'S  
EXPENSE**

13 LANCE KELLOW,

14 Defendant.

**AND ORDER**

15  
16 COMES NOW defendant Lance Kellow, ("Mr. Kellow") by and through counsel,  
17 Michael V. Cristalli, Esq., and Eunice M. Beattie, Esq., of Gordon Silver, and hereby moves the  
18 Court to grant Mr. Kellow's Emergency Motion Requesting Trial Transcripts be Transcribed at  
19 the Government's Expense and approve Mr. Kellow's CJA 24 form, requesting and authorizing  
20 transcripts.

21 Dated this 21<sup>st</sup> day of August, 2013.

22 GORDON SILVER

23 /s/MICHAEL V. CRISTALLI  
24 MICHAEL V. CRISTALLI  
25 Nevada Bar No. 6266  
EUNICE MORGAN BEATTIE  
26 Nevada Bar No. 10382  
3960 Howard Hughes Pkwy., 9th Floor  
27 Las Vegas, Nevada 89169  
(702) 796-5555  
Attorneys for Lance Kellow  
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I.

3 **STATEMENT OF RELEVANT FACTS**

4 On July 12, 2013, Mr. Kellow retained the services of the undersigned counsel. Since  
5 counsel was not the trial attorney and has been retained to represent him regarding sentencing,  
6 and appeal, counsel needs to review the transcripts from the trial in this matter prior to Mr.  
7 Kellow's sentencing and for the purpose of preparing the appeal.

8 That on August 6, 2013, the undersigned counsel submitted a request for transcripts. *See*  
9 Transcript Request Form, attached as Exhibit 1. However, counsel was advised that the  
10 transcripts are in excess of \$12,605.15 for an expedited seven (7) days turn-around, and  
11 \$9,000.00 dollars for a thirty (30) day turn-around. *See* Email from court reporter dated August  
12 12, 2013, attached as Exhibit 2.

13 Mr. Kellow has exhausted all his financial resources. It was only through family  
14 assistance that Mr. Kellow was able to retain the services of the undersigned counsel and as such,  
15 counsel respectfully request that payment of the transcripts be incurred at the Government's  
16 expense.

17 Counsel has asked that this matter be decided on an emergency basis. This Court has  
18 scheduled Mr. Kellow's sentencing for October 18, 2013, and should the Court grant  
19 Defendant's motion on a 30 day turn-around, this will barely afford counsel sufficient time to  
20 review all transcripts and prepare any additional documents need for sentencing. Additionally,  
21 counsel has attached a proposed CJA 24 Authorization and Voucher for Payment of Transcript  
22 form, should this Court grant Defendant's motion. *See* Exhibit 3.

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1 CONCLUSION

2 For all the reason stated above, Mr. Kellow respectfully prays that this Honorable Court  
3 grant said emergency motion requesting trial transcripts be transcribed at the government's  
4 expense and approve Mr. Kellow's CJA 24 form, requesting and authorizing transcripts.

5 DATED this 21st day of August, 2013.

6 GORDON SILVER

7 /s/MICHAEL V. CRISTALLI  
8 MICHAEL V. CRISTALLI  
9 Nevada Bar No. 6266  
EUNICE MORGAN BEATTIE  
10 Nevada Bar No. 10382  
3960 Howard Hughes Pkwy., 9th Floor  
11 Las Vegas, Nevada 89169  
(702) 796-5555  
12 Attorneys for Lance Kellow

13 ORDER

14 The Court having read the Emergency Motion Requesting Trial Transcripts Be  
15 Transcribed at Government's Expense (ECF No. 243) filed by Defendant Lance Kellow  
on August 21, 2013, is hereby **GRANTED** in part and **DENIED** in part, as follows:

16 **IT IS HEREBY ORDERED** that Defendant Lance Kellow's Emergency Motion  
17 Requesting Trial Transcripts Be Transcribed at Government's Expense (ECF No. 243) is  
18 **GRANTED**.

19 **IT IS FURTHER ORDERED** that Defendant's request for an expedited delivery  
20 time is **DENIED**.

21 **IT IS FURTHER ORDERED** that the trial transcripts relating to the Defendant  
22 shall be transcribed in the **ORDINARY** delivery course, to be delivered within thirty (30)  
calendar days after receipt of the order for the same.

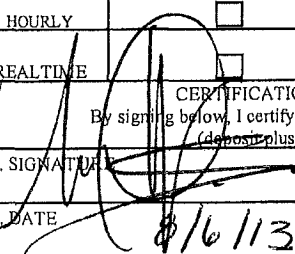
23 **IT IS FURTHER ORDERED** that the trial transcripts shall be prepared at the  
24 expense of the United States pursuant to the Criminal Justice Act.

25 DATED this 11th day of September, 2013.

26   
27 \_\_\_\_\_  
28 Gloria M. Navarro  
United States District Judge

# EXHIBIT 1

# EXHIBIT 1

AO 435 (Rev. 04/11)		Administrative Office of the United States Courts  <b>TRANSCRIPT ORDER</b>		<b>FOR COURT USE ONLY</b>  <b>DUE DATE:</b>	
Please Read Instructions:					
1. NAME <i>Michael V. Cristall, Esq.</i>		2. PHONE NUMBER <i>796-5555</i>		3. DATE <i>8/6/13</i>	
4. MAILING ADDRESS <i>3960 Howard Hughes Pkwy # 9th Fl</i>		5. CITY <i>LV</i>		6. STATE <i>NV</i>	7. ZIP CODE <i>89178</i>
8. CASE NUMBER <i>2:10-cr-00287</i>		9. JUDGE <i>Gloria Navarro</i>		DATES OF PROCEEDINGS	
12. CASE NAME <i>USA v. Kellow et al.</i>		10. FROM <i>2/11/13</i>		11. TO	
		LOCATION OF PROCEEDINGS			
		13. CITY <i>LV</i>		14. STATE <i>NV</i>	
15. ORDER FOR					
<input type="checkbox"/> APPEAL		<input checked="" type="checkbox"/> CRIMINAL		<input type="checkbox"/> CRIMINAL JUSTICE ACT	
<input type="checkbox"/> NON-APPEAL		<input type="checkbox"/> CIVIL		<input type="checkbox"/> IN FORMA PAUPERIS	
				<input type="checkbox"/> BANKRUPTCY	
				<input type="checkbox"/> OTHER	
16. TRANSCRIPT REQUESTED (Specify portion(s) and date(s) of proceeding(s) for which transcript is requested)					
PORTIONS		DATE(S)		PORTION(S)	
<input checked="" type="checkbox"/> VOIR DIRE		<i>2/11/13 DKT 160</i>		<input type="checkbox"/> TESTIMONY (Specify Witness)	
<input type="checkbox"/> OPENING STATEMENT (Plaintiff)					
<input type="checkbox"/> OPENING STATEMENT (Defendant)					
<input type="checkbox"/> CLOSING ARGUMENT (Plaintiff)				<input type="checkbox"/> PRE-TRIAL PROCEEDING (Specy)	
<input type="checkbox"/> CLOSING ARGUMENT (Defendant)					
<input type="checkbox"/> OPINION OF COURT					
<input type="checkbox"/> JURY INSTRUCTIONS				<input type="checkbox"/> OTHER (Specify)	
<input checked="" type="checkbox"/> SENTENCING		<i>3/29/13 4/26/13</i>		<i>2/15/13, 2/19/13</i>	
<input type="checkbox"/> BAIL HEARING				<i>2/26/13, 2/27/13</i>	
				<i>2/22/13, 2/25/13, 2/26/13, 3/1/13</i>	
17. ORDER					
CATEGORY	ORIGINAL (Includes Certified Copy to Clerk for Records of the Court)	FIRST COPY	ADDITIONAL COPIES	NO. OF PAGES ESTIMATE	COSTS
ORDINARY	<input type="checkbox"/>	<input type="checkbox"/>	NO. OF COPIES		
14-Day	<input type="checkbox"/>	<input type="checkbox"/>	NO. OF COPIES		
EXPEDITED	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	NO. OF COPIES <i>1</i>		
DAILY	<input type="checkbox"/>	<input type="checkbox"/>	NO. OF COPIES		
HOURLY	<input type="checkbox"/>	<input type="checkbox"/>	NO. OF COPIES		
REALTIME	<input type="checkbox"/>	<input type="checkbox"/>			
CERTIFICATION (18. & 19.) By signing below, I certify that I will pay all charges (deposit plus additional).				ESTIMATE TOTAL	0.00
18. SIGNATURE 				PROCESSED BY	
19. DATE <i>8/6/13</i>				PHONE NUMBER	
TRANSCRIPT TO BE PREPARED BY				COURT ADDRESS	
ORDER RECEIVED		DATE	BY		
DEPOSIT PAID				DEPOSIT PAID	
TRANSCRIPT ORDERED				TOTAL CHARGES	0.00
TRANSCRIPT RECEIVED				LESS DEPOSIT	0.00
ORDERING PARTY NOTIFIED TO PICK UP TRANSCRIPT				TOTAL REFUNDED	
PARTY RECEIVED TRANSCRIPT				TOTAL DUE	0.00

DISTRIBUTION: COURT COPY TRANSCRIPTION COPY ORDER RECEIPT ORDER COPY

# EXHIBIT 2

# EXHIBIT 2

## Myra L. Hyde

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**From:** Henry\_Enriquez@nvd.uscourts.gov  
**Sent:** Monday, August 12, 2013 2:36 PM  
**To:** Myra L. Hyde  
**Subject:** re: 2:10-cr-287 US v Kellow  
**Attachments:** pic21538.gif

(Embedded image moved to file: pic21538.gif)

We received your transcript order for the above hearing. The estimated cost for a Expedited 7 dayorder transcript would be \$12,605.15. The transcription will be done by Exceptional Reporting Services. Please make your check payable to Exceptional Reporting Services. Please attach a copy of the transcript order form to the check. You can either mail it in or come to the courthouse. If you need to mail it, the address is:

US District Court

Attn: ECRO Dept.

333 Las Vegas BLVD

Las Vegas, NV 89101

Alternately, you can call Exceptional Reporting Services at 361-949-2988 and give them a credit card payment over the phone. Then they will contact us with your payment information and we will release the recording to them to be transcribed.

The breakdown is as follows:

2/11/13- 287 minutes

2/15/13- Not available

2/19/13- 311 minutes

2/20/13- 368 minutes

2/21/13- 360 minutes

2/22/13- 360 minutes

2/25/13- 282 minutes

2/26/13- 464 minutes

3/1/13- 13 minutes

3/29/13- 118 minutes

4/26/13- 48 minutes

Total= 2599 minutes

Please contact me at 702-464-5567 if you have any further questions.

Sincerely,

Henry Enriquez

Henry Enriquez  
U.S. District Court  
District of Nevada  
702-464-5567  
702-464-5410 (fax)



# EXHIBIT 3

# EXHIBIT 3

1. CIR/DIST./DIV. CODE District of Nevada		2. PERSON REPRESENTED Lance Kellow		VOUCHER NUMBER		
3. MAG. DKT./DEF. NUMBER		4. DIST. DKT./DEF. NUMBER 2:10-CR-00287-GMN-VCF		5. APPEALS DKT./DEF. NUMBER		6. OTHER DKT. NUMBER
7. IN CASE/MATTER OF (Case Name)  USA v. Lance Kellow, et al.		8. PAYMENT CATEGORY <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Petty Offense <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Other <input type="checkbox"/> Appeal		9. TYPE PERSON REPRESENTED <input type="checkbox"/> Adult Defendant <input type="checkbox"/> Appellant <input checked="" type="checkbox"/> Juvenile Defendant <input type="checkbox"/> Appellee <input type="checkbox"/> Other		10. REPRESENTATION TYPE (See Instructions) CC
11. OFFENSE(S) CHARGED (Cite U.S. Code, Title & Section) <i>If more than one offense, list (up to five) major offenses charged, according to severity of offense.</i> 18 U.S.C. section 1349 - Conspiracy to Commit Bank Fraud						
<b>REQUEST AND AUTHORIZATION FOR TRANSCRIPT</b>						
12. PROCEEDING IN WHICH TRANSCRIPT IS TO BE USED (Describe briefly) Sentencing of Lance Kellow and possible Appeal to the Ninth Circuit						
13. PROCEEDING TO BE TRANSCRIBED (Describe specifically). NOTE: The trial transcripts are not to include prosecution opening statement, defense opening statement, prosecution argument, defense argument, prosecution rebuttal, voir dire or jury instructions, unless specifically authorized by the Court (see Item 14). All Trial Transcript and the Sentencing Transcripts for both co-defendants.						
14. SPECIAL AUTHORIZATIONS						JUDGE'S INITIALS
A. Apportioned Cost _____ % of transcript with (Give case name and defendant)						
B. <input checked="" type="checkbox"/> 14-Day <input type="checkbox"/> Expedited <input type="checkbox"/> Daily <input type="checkbox"/> Hourly <input type="checkbox"/> Realtime Unedited						
C. <input checked="" type="checkbox"/> Prosecution Opening Statement <input checked="" type="checkbox"/> Prosecution Argument <input checked="" type="checkbox"/> Prosecution Rebuttal <input checked="" type="checkbox"/> Defense Opening Statement <input checked="" type="checkbox"/> Defense Argument <input checked="" type="checkbox"/> Voir Dire <input checked="" type="checkbox"/> Jury Instructions						
D. In this multi-defendant case, commercial duplication of transcripts will impede the delivery of accelerated transcript services to persons proceeding under the Criminal Justice Act.						
15. ATTORNEY'S STATEMENT  As the attorney for the person represented who is managed above, I hereby affirm that the transcript requested is necessary for adequate representation. I, therefore, request authorization to obtain the transcript services at the expense of the United States pursuant to the Criminal Justice Act.  <div style="text-align: right; margin-right: 100px;">08/07/2013</div> <div style="text-align: right;">Signature of Attorney</div> <div style="text-align: right;">Date</div> <div style="text-align: right; margin-right: 100px;">Michael V. Cristalli</div> <div style="text-align: right;">Printed Name</div> Telephone Number: _____ <input type="checkbox"/> Panel Attorney <input checked="" type="checkbox"/> Retained Attorney <input type="checkbox"/> Pro-Se <input type="checkbox"/> Legal Organization				16. COURT ORDER  Financial eligibility of the person represented having been established to the Court's satisfaction the authorization requested in Item 15 is hereby granted.  <div style="text-align: center;">Signature of Presiding Judge or By Order of the Court</div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div>Date of Order</div> <div>Nunc Pro Tunc Date</div> </div>		
<b>CLAIM FOR SERVICES</b>						
17. COURT REPORTER/TRANSCRIBER STATUS  <input type="checkbox"/> Official <input type="checkbox"/> Contract <input type="checkbox"/> Transcriber <input type="checkbox"/> Other				18. PAYEE'S NAME AND MAILING ADDRESS   <div style="text-align: right;">Telephone Number: _____</div>		
19. SOCIAL SECURITY NUMBER OR EMPLOYER ID NUMBER OF PAYEE						
20. TRANSCRIPT	INCLUDE PAGE NUMBERS	NO. OF PAGES	RATE PER PAGE	SUB-TOTAL	LESS AMOUNT APPORTIONED	TOTAL
Original						
Copy						
Expense (Itemize)						
<b>TOTAL AMOUNT CLAIMED:</b>						
21. CLAIMANT'S CERTIFICATION OF SERVICE PROVIDED I hereby certify that the above claim is for services rendered and is correct, and that I have not sought or received payment (compensation or anything of value) from any other source for these services.  Signature of Claimant/Payee _____ Date _____						
<b>ATTORNEY CERTIFICATION</b>						
22. CERTIFICATION OF ATTORNEY OR CLERK I hereby certify that the services were rendered and that the transcript was received.  Signature of Attorney or Clerk _____ Date _____						
<b>APPROVED FOR PAYMENT — COURT USE ONLY</b>						
23. APPROVED FOR PAYMENT  Signature of Judge or Clerk of Court _____ Date _____						24. AMOUNT APPROVED